In Terrorem

Well, here I am in the same old room for the final. Shall I sit in my regular seat or take a different one. Geez, that old seat has so many bad vibrations - if I look up all I'll see is the old bird glaring at me and screaming "Therefore what?!" Better sit here in the back instead.

OK, I have six pencils, eight pens and... where's my bluebook? I know I brought one along. God, it's not in my pants pockets, it's not in my coat pockets. I must have dropped it along the way. Do I have time to hunt it down or should I go over to the Cellar? Can't leave my notebook and text... my notebook. Aaahh, I put it in my notebook!

Wow. Staying up for the last two days and nights has really messed up my mind. Sure glad I was awake enough to look at my watch - I hardly knew what I was doing or what part of the day it was.

These classrooms sure are dull and drab. My notebook really adds some color and texture to the scene. Wish I had taken some notes this semester. And the dark blue textbook really looks neat, too. Hmm, Foundation Press. Then there are those Little, Brown books - they're always big and red. Ha ha. The dark brown ones I guess are West Publishing. How come only three companies and how can they charge so darned much? Oh, why am I worrying about that; I won't be taking anti-trust. Wish I had read the textbook this semester.

You'd think more people would have showed up by now. But I'm the only soul here. They better get here pretty quick or they won't get credit for the course.

I was strolling through the courtyard one day last week, when I ran into my friend and fellow law student, Whitcroft.

"Hi Joe", he said, "What's new?"

"Quite a bit", I said, "I've been in hiding ever since I found out that Dean St. Unwound put out a contract on me for writing that article!"

"What kind of contract?" he asked.

"Well, I'll put it this way, it's with the Scalizzi Brothers out of Chicago."

"Hmm, well don't worry about it," he said, "I'm sure it's unconscionable, unenforceable, and illegal. If they get you, I'll sue 'em for damages. Let's see I oughta be able to get punitive damages, incidental, consequential, expectation interest..."

"Thanks a lot!" I interrupted somewhat perturbed.

"By the way, Joe," said Whitcroft, "I've got to tell you what happened to me on my vacation. As you know, I went to Atlanta for three weeks."

"Atlanta? Isn't that the place that sank into the ocean about a thousand years ago?" I asked.

"No, no, no, that was Atlantis. Atlanta is afloat on Coca-cola. Anyway, let me tell you my story." said Whitcroft.

At this point we both went over to a local restaurant. While I was ogling the waitress (incidentally she returned a glare that had "sexist" written all over it. "Hmm," I thought, "DAUTREMON'TS been here.")
(TEROREM cont'd from p.1)

Is it possible all those others are right and I'm wrong? Wait a minute. There's the sound of the door opening. I won't turn around though and rubberneck like everybody else always does whenever they're waiting for the exam to start. I'll just slouch a little and gloat since I showed up ahead of the procrastinators who put off coming until the last minute. What else do they think they can learn anyway.

Oh no, it's a janitor with a mop and bucket. Doesn't he know there's going to be a very important test here. Why can't the Law School hire better help these days instead of wasting money on all those canon law and Phillippine trade regulation books nobody ever reads.

How come he's looking at me so funny? He doesn't have any right to do that. I'm going to be a highly-paid professional in not too long a time! Hmm, the proctors aren't even here yet either. Maybe I better take a glance down at the 'ol timepiece on the wrist. Yes, it's almost time for the test. Gee, I never noticed before how crookedly they pasted the numbers on my watch.

DAMN! My watch is on upside down! I thought it was kinda dark for noontime. Been so busy this last week I hadn't read the papers to know for sure if there was an eclipse.

mgs

FILM SHOWCASE

THURSDAY – AUGUST 9

Film Study
- Zagreb Bits III (6 min.)
- Experiments in Motion Graphics (13 min.)
- Permutations (7 min.)
- Renaissance (10 min.)
- Louisiana Story (77 min.)

FRIDAY – AUGUST 10

Physical Challenge
- Sticky My Fingers, Fleet My Feet (23 min.)
- Solo (15 min.)
- Brian's Song (7 min.)


(LAWYER cont'd from p.1)

Whitcroft began his story.

"When I got to Atlanta I found out that a conference of UCC, and Tort experts was meeting at Emory. What better way to spend a vacation", Whitcroft said, "than by listening to speeches on the Parol Evidence Rule and strict liability?"

About this time I'd developed a strategy for meeting that waitress, when I realized Whitcroft had stopped talking and was awaiting my response.

"Did you see where they make the cloth?" I asked him.

"Cloth? What cloth?"

"Didn't you say you went to Emory?" I asked. "Well haven't you ever heard of Emory cloth?"

I might point out here that Whitcroft is number one in his class and has also won (see MORE LAWYER p.3)
Recently I read a very interesting book which, to me, highlighted one of the most important contemporary problems about the professional education of lawyers. Mellinkoff in The Conscience of a Lawyer** describes the historical development of the concept of right to counsel in criminal cases and the paralleled ethical question of whether or not counsel may express his personal views about his client's innocence or guilt during the course of the trial. The complexity of the social and jurisprudential questions are thoroughly explored, but nowhere in the text is there a single word of advice, instruction, nor indeed elucidation, of how counsel may learn to practice whatever he decides to do. It is precisely this kind of crucial psychological problem with which legal educators are now wrestling. With the advent and legitimization of "Clinical Legal Education" in the high-status law schools, this kind of question is at long last being addressed. Since dealing with it involves a psychological process, it provides an appropriate topic for a psychiatrist.

Fundamental to skillful "professional" practice is the psychological capacity to deal with what are ultimately "conflicts of interest" in counsel's psyche. Though lawyers are quick to separate out conflicted procedures in their legal operations, because many of the professional problems lawyers face are intra-psychic, they must be handled by the person in whom they exist. The need to learn this skill is central to effective clinical legal education. Let me describe some of the constituent elements of such conflicts and how they must be managed if effective learning is to take place.

First of all, professional behavior is a very personal process and all of its conflicts as well as its gratifications reflect the reverberation between external social forces and highly personal emotional motivations and conflicts. The nature of these interactions will determine whether or not an individual lawyer will work with professional effectiveness or whether he will gravitate toward behavior which will or should bring him to the attention of the bar ethics committee.

During the course of their professional education, law students must learn of the omnipresent temptations toward self-serving in order to develop an early-warning system which will alert them to this sort of activity. To do this legal educators, at the earliest possible moment, must begin to interpret for students the presence of these emotional factors in their multi-form manifestations. No opportunity should be lost in large classes, seminars or clinical courses to demonstrate, interpret and explore such forces. To do otherwise covertly places the stamp of approval upon them. Also, it is important for students to learn to accept without pause the fact that they can think "evil" without wincing or feeling themselves to be bad. Then and only then may they learn to keep self-interest, that enemy to appropriate professional behavior, in full view where it can't motivate action unconsciously.

Current Clinical Education

This leads me to comment upon the current scene in clinical education. It seems clear to me that student demand has (see ETHICS p.4)


(MORE LAWYER cont'd from p.2)

the Dean St. Unwound Memorial Medal--for having memorized the complete statutes annotated of all fifty-one American jurisdictions. "Coincidentally", he is also humorless. Somewhat miffed at my poor attempt towards humor, he proceeded.

"All in all, the conference was most interesting." he said.

"I suppose there were many controversial issues raised over problems of poverty and social injustice and the hesitancy of the judicial system to tackle them." I said.

"Poverty? Social injustice?" asked Whitcroft with a blank look in his eyes. "Is that a new uniform statute I haven't heard about?" he asked.

Shaking my head, I didn't bother to respond. At that point our food arrived, and I began to dig in.

"Wait a minute," Whitcroft said, "you've forgotten to say grace!"

I'm a tolerant person so I made no objection. (see EVEN MORE LAWYER p.4)
been the paramount force in overcoming faculty reticence to teach professionalism during law school. Slowly that idea has been accepted, and now the main question is "How?" (The matter of how is also being used as the principal resistance to doing it.) There is substantial merit to the view that merely parading a student through or before lawyering activities will not teach him the needed skills. That method, thoroughly tried out in the days when one "read law" in a lawyer's office, left a great deal to be desired.

On the other hand, current law school methods with their emphasis on "learning to think and write like a lawyer" also produce professionals who commonly lack several much-needed skills. This is where clinical experience in a law school setting, properly explored and interpreted by teachers who are experienced in analyzing the interpersonal processes between lawyer and client, could help students develop a sense of concern and a beginning capacity for dealing with the lawyer-client relationship. Instead of signaling disinterest and apathy about these crucial behaviors, demonstration and modeling-leadership could be deployed to grasp and preserve that delicate and destructible part of the student psyche that is concerned with altruism. To overlook that chance during law school may result in irretrievable loss.

Impact of Argersinger

Let me comment, finally, on one more important matter. With the Supreme Court's holding in Argersinger v. Hamlin, a strong demand has been placed on legal educators to concern themselves with "public law." As in the "public health" concern of the medical professional, lawyers must now address themselves to the logistical demands of large numbers of cases. This means that in addition to the need to develop new methods for high-volume work, a psychological capacity must also be developed to look at legal problems in a new way. Lawyers must learn to feel comfortable working on an issue even when they don't "make a federal case of it." When one has been trained to carry out definitive work on cases, it is not so easy to do less without the feeling of perpetrating a fraud. This raises the same kind of emotional stress physicians face when they helplessly watch their patient die because they don't have some needed drug or some piece of necessary equipment. If the skill to face such a stress is not developed, it can lead to inappropriate professional behavior, or at least a substantial amount of personal pain. Such pain may cause a lawyer to withdraw from certain fields of legal activity, even though he is very much needed there.

There has been much discussion recently about the possibility of shortening legal education. This has been responsive to impressions that analytical skill and policy evaluation, those special provinces of good law schools, are well-learned by the end of two years and the third year in its present form is largely redundant. As we learn more about how to teach the subject of clinical law, it appears clear to me that we cannot logically anticipate shortening the time for legal education. It may well be that the ultimate legal curriculum will be modified so that it bears close resemblance to that of medical education. The first two years would be devoted to case analysis and policy exploration while the next one to three years would be used for specialty training, which would lead to some kind of speciality "board" qualification. This strategy has many complex logistical problems but there is none which appears insurmountable. Indeed, such a plan would, among other things, do much to draw academic lawyers into close teaching involvement with the practicing bar to the mutual advantage of both. The special talents of these two groups could then join to bring all that has been learned since Langdell's day into the fruitful development of a better and more professionalized bar. In so doing, the interests of the bar and the public would be well served.

"I'll say it for you", he said, "It's also good to use before finals: Judge Traynor; pray for us, Judge Cardozo; pray for us, Dean Prosser; pray for us, Judge Carswell; better luck next time, Judge ...."

By this time everyone in the restaurant had turned around and was looking at us. Naturally, I was exceedingly embarrassed. I then overheard a little girl in the next booth talking to her mother.

"Mommy," she asked, "how come those two men over there talk so funny?"

"Well daughter," she said, "it's because they're law students. Something happens to their minds at law school. In fact Mental Illness strikes down more law students than any disease!"

At this, I ran out of the restaurant. The last I heard of Whitcroft was that he had become the youngest professor of law in Harvard's history. - Joe Fenech